



**STATE OF ILLINOIS
HUMAN RIGHTS COMMISSION**

IN THE MATTER OF:)	
)	
PATRICIA ARMSTRONG,)	
)	
Complainant,)	
)	Charge No.: 1997CA0258
and)	EEOC No.: 21B963019
)	ALS No.: 9944
BAYER PHARMACEUTICAL DIVISION)	
and BAYER PHARMACEUTICAL,)	
)	
Respondents.)	

RECOMMENDED ORDER AND DECISION

On May 7, 1997, the Illinois Department of Human Rights filed a complaint on behalf of Complainant, Patricia Armstrong. That complaint alleged that Respondents, Bayer Pharmaceutical Division and Bayer Pharmaceutical, discriminated against Complainant on the bases of her age and color by denying her a promotion.

This matter now comes on to be heard on my own motion, *sua sponte*, to dismiss the case for want of prosecution. The parties have done nothing on the case since 1997, and it appears that the case has either been settled or abandoned.

FINDINGS OF FACT

The following facts were derived from the record file in this matter.

1. On August 6, 1997, Administrative Law Judge Denise A.

Diaz entered a scheduling order in this matter. That order set dates for such things as initiation of discovery, filing of a joint prehearing memorandum, and final status.

2. The parties did not appear for the final status set by Judge Diaz in her August, 1997 order.

3. On March 6, 2000, Judge Diaz entered an order setting a date for preparing and filing a joint prehearing memorandum. That order also set a new final status date of April 19, 2000.

4. Neither party appeared at the April 19, 2000 final status.

5. On April 19, 2000, Administrative Law Judge Tracy Shine entered an order which set a new dates for filing a joint prehearing memorandum. Judge Shine's order also set a new final status date of May 10, 2000. The order specifically stated that failure to appear might result in dismissal if Complainant failed to appear.

6. Judge Shine's order was mailed to the parties. He copy mailed to Complainant's counsel was returned to the Commission's office by the United States Postal Service because it was undeliverable as addressed and there was no forwarding address on file.

7. Neither party appeared for final status on May 10, 2000.

8. The parties have never filed a joint prehearing memorandum.

9. The last document filed in this matter by either party was received in the Commission's office on September 8, 1997.

CONCLUSIONS OF LAW

1. Complainant's failure to prosecute this matter, or even to keep the Commission apprised of a valid address for her attorney, has unreasonably delayed the proceedings in this matter.

2. In light of Complainant's apparent abandonment of her claim, it is appropriate to dismiss this matter with prejudice.

DISCUSSION

During the first few months after the complaint in the matter was filed, the parties behaved in predictable fashion. Scheduling orders were entered and discovery was begun. Then, without explanation, the parties stopped appearing and nothing further happened in the case.

Two administrative law judges entered orders intended to put the case back on schedule, but those orders were ignored by the parties. The last order entered in the case warned Complainant that failure to appear might lead to dismissal, but Complainant still failed to appear. Moreover, Complainant has neglected to provide this office with a current address for her attorney. That continued failure to prosecute the case has unreasonably delayed the proceedings.

It is obvious that the case has either been settled or abandoned. As a result, it is appropriate to dismiss the claim

with prejudice. See **Leonard and Solid Matter, Inc.**, ___ Ill. HRC Rep. ___, (1989CN3091, August 25, 1992).

RECOMMENDATION

Based upon the foregoing, Complainant's inaction has unreasonably delayed the proceedings in this matter. It appears that she has abandoned her claim. Accordingly, it is recommended that the complaint in this case be dismissed in its entirety, with prejudice.

HUMAN RIGHTS COMMISSION

BY: _____
MICHAEL J. EVANS
ADMINISTRATIVE LAW JUDGE
ADMINISTRATIVE LAW SECTION

ENTERED: July 29, 2002